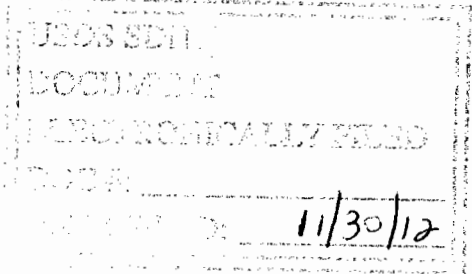



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
500 PEARL STREET
NEW YORK, NEW YORK 10007-1581
(212) 805-6325

CHAMBERS OF
COLLEEN McMAHON
UNITED STATES DISTRICT JUDGE



TO ALL COUNSEL IN: Born to Rock Designs Inc v. Café Press, Inc. (10 Civ. 8588 (CM))
FROM: Judge McMahon 
RE: Final Pre-Trial Rulings

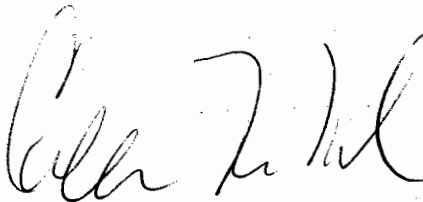
Obviously, I have held off issuing any further rulings in this case in the hope that you folks would settle. Apparently that is not going to happen. I have better things for Mr. O'Neill to do, so I am taking him off the case. As far as I am concerned, we are going to trial.

In response to the letter I have just received from Defendant's counsel:

1. It should be obvious that plaintiff is limited to statutory damages (assuming, of course, that it prevails). The Final Pre-Trial Order indicates that Plaintiff seeks "injunctive relief, corrective advertising, *statutory damages*, fees and costs." The issue of actual damages will not be submitted to the jury.
2. Defendant may introduce Plaintiff's Financial Records at trial. In my charge to the jury, I will explain the limited purpose for which those records are being introduced.
3. I draft my own statement of the case to read to the jury.
4. The jury will not be allowed to see any demonstrative that conflates plaintiff's two separate trademark registrations. Either prepare separate demonstratives for each registration or simply rely on the actual registrations themselves (which, as I will tell the jury, is the actual evidence in the case). A demonstrative containing excerpts from PX 14 is fine -- most demonstratives are created to highlight portions of longer exhibits -- as long as the excerpts really are from PX 14. Counsel are free to comment on the quality and the nature (misleading or otherwise) of any demonstrative before the jury by comparing the demonstrative to the actual exhibit.

5. Arguments relating to attorneys' fees are for after the trial. As far as a finding of counterfeiting, the jury will be given a special verdict form. The jurors will be asked to find whether the t-shirts sold via CafePress are or are not "counterfeits" of the t-shirt registered by BTR.

I will see you at 9:45 Monday morning.

A handwritten signature in black ink, appearing to be "C. J. H.", written over a horizontal line.

U.S.D.J